IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIFTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 19834 of 2002

Between:

M.R.Mohan, S/o Ramakrishna,

Aged about 32 years, Casual Driver No.411656,

R/o Kothapeta, Ramapuram,

Rayachoty, Kadapa District.

..... PETITIONER

AND

1. The Depot Manager, APSRTC Rayachoty Depot,

Rayachoty, Kadapa District.

2. APSRTC, reptd. By its Managing Director,

Musheerabad, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of respondent No.1 in deleting the name of the petitioner, as punishment, from the select list of the approved list of drivers under impugned proceedings No.01/2(11)/2001-RCTY, dated 03.05.2001, as illegal, arbitrary and unconstitutional and violative of principles of natural justice and consequently, to direct the respondents to include the petitioner's name in select list/approved list by setting aside the impugned proceedings.

Counsel for the Petitioner: MR.S.S.BHATT

Counsel for the Respondents: MR.P.VINAYAKA SWAMY,

SC FOR APSRTC

The Court made the following:

ORDER:

The petitioner joined as casual driver on daily wage basis in the respondent-Corporation on 03.06.2000 and since then, he has been working as such till his services were terminated through the impugned order dated 03.05.2001.

Questioning the said order, the present writ petition is filed stating that before imposition of such punishment, no enquiry as such was conducted nor any reasons were assigned in the impugned proceedings for removal of his name from the approved list/ select list. The impugned order passed by the first respondent is stigmatic because removal by way of punishment cannot be imposed even if he was appointed on daily wage basis nor any procedure as contemplated under Industrial Disputes Act, 1947, is followed.

The respondent-Corporation in its counter affidavit stated that on 20.03.2001, while the petitioner was performing his duty on vehicle bearing No.AP10Z-4066 on Chakibanda route, drove the same negligently and hit a bullock cart moving in the same direction and caused accident near Raju High School in Rayachoty town. It is stated that in the preliminary enquiry, it is found that the petitioner had not taken any precautionary measures to avoid the accident and accordingly, a show cause notice was issued on 25.04.2001 calling upon the petitioner as to why his name should not be deleted from the approved list/select list, for which the petitioner submitted his

explanation. Not satisfied with the explanation offered by the petitioner, the impugned order was passed. It is stated in the impugned proceedings that in spite of being counselled on several occasions, the petitioner failed to improve his performance, therefore, the impugned proceedings were passed.

The tenor of the impugned order and the stand taken by the respondent-Corporation clearly establish that deletion of the petitioner's name from the approved list/select list is by way of punishment and was not preceded by enquiry. The respondent-Corporation has not stated the Regulations, which are applicable for such deletion, under which the impugned order has been passed.

In view of the same, the impugned order passed by the first respondent is in utter violation of principles of natural justice and the same is liable to be set-aside.

The writ petition is accordingly allowed and the impugned order dated 03.05.2001 is set aside. In the circumstances, no order as to costs.

_____

(K.C.BHANU, J)

15.07.2004

dr

That Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the Acting Chief Justice on this Friday, the fifteenth day of July, Two thousand and Five

To

1. The Depot Manager, APSRTC Rayachoty Depot,

Rayachoty, Kadapa District.

2. The Managing Director, APSRTC,

Musheerabad, Hyderabad.

3 2 CD copies